

ASSEMBLY BILL

No. 1006

Introduced by Assembly Member Cook

February 18, 2011

An act to add Part 10.1 (commencing with Section 15706) to Division 3 of Title 2 of the Government Code, and to amend Sections 17024.5, 18526, 19032, 19057, 19058, 19060, 19061, 19065, 19066.5, 23051.5, 24273.5, and 24945 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1006, as introduced, Cook. Taxation: Franchise Tax Board: statute of limitations: burden of proof.

Existing law imposes income taxes that are administered and collected by the Franchise Tax Board. Existing law establishes a general four-year statute of limitations, subject to specified exceptions, for actions by the Franchise Tax Board regarding tax liability and also provides that the taxpayer has the burden of proof in court proceedings for purposes of state income tax laws.

This bill would provide that the Franchise Tax Board shall have the burden of proof in any court or administrative tax proceedings with respect to any factual issue relevant to ascertaining the tax liability of a taxpayer. This bill would also provide that these provisions shall not subject a taxpayer to unreasonable search or access to records in violation of the law. This bill would additionally revise the statute of limitations regarding specified actions, including audits, conducted by the board and would require the board to have just cause before beginning any audit.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as
2 “The Tax Fairness Act of 2011.”

3 SEC. 2. Part 10.1 (commencing with Section 15706) is added
4 to Division 3 of Title 2 of the Government Code, to read:

5
6 PART 10.1. BURDEN OF PROOF
7

8 15706. (a) The Franchise Tax Board shall have the burden of
9 proof in any court or administrative tax proceeding with respect
10 to a factual issue related to ascertaining the tax liability of a
11 taxpayer.

12 (b) For purposes of this section:

13 (1) “Administrative tax proceeding” means, for disputes
14 concerning taxes collected by the Franchise Tax Board, the oral
15 hearing before the members of the State Board of Equalization.

16 (2) “Tax liability” means any tax or fee assessed or determined
17 by the Franchise Tax Board, including any interest accrued or
18 penalties levied in association with the tax or fee.

19 (c) Unless provided otherwise, the burden of proof for purposes
20 of this part shall be a preponderance of the evidence.

21 (d) Nothing in this section shall subject a taxpayer to
22 unreasonable search or access to records in violation of the United
23 States Constitution, the California Constitution, or any other law.

24 (e) This section shall apply only to court and administrative
25 proceedings involving assessments or notices of determination
26 issued on or after the date on which this act becomes operative.

27 SEC. 3. Section 17024.5 of the Revenue and Taxation Code
28 is amended to read:

29 17024.5. (a) (1) Unless otherwise specifically provided, the
30 terms “Internal Revenue Code,” “Internal Revenue Code of 1954,”
31 or “Internal Revenue Code of 1986,” for purposes of this part,
32 mean Title 26 of the United States Code, including all amendments

thereto as enacted on the specified date for the applicable taxable year as follows:

	Specified Date of Internal Revenue Code Sections
Taxable Year	
(A) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983.....	January 15, 1983
(B) For taxable years beginning on or after January 1, 1984, and on or before December 31, 1984.....	January 1, 1984
(C) For taxable years beginning on or after January 1, 1985, and on or before December 31, 1985.....	January 1, 1985
(D) For taxable years beginning on or after January 1, 1986, and on or before December 31, 1986.....	January 1, 1986
(E) For taxable years beginning on or after January 1, 1987, and on or before December 31, 1988.....	January 1, 1987
(F) For taxable years beginning on or after January 1, 1989, and on or before December 31, 1989.....	January 1, 1989
(G) For taxable years beginning on or after January 1, 1990, and on or before December 31, 1990.....	January 1, 1990
(H) For taxable years beginning on or after January 1, 1991, and on or before December 31, 1991.....	January 1, 1991
(I) For taxable years beginning on or after January 1, 1992, and on or before December 31, 1992.....	January 1, 1992
(J) For taxable years beginning on or after January 1, 1993, and on or before December 31, 1996.....	January 1, 1993
(K) For taxable years beginning on or after January 1, 1997, and on or before December 31, 1997.....	January 1, 1997

- 1 (L) For taxable years beginning on or after
2 January 1, 1998, and on or before December
3 31, 2001..... January 1, 1998
4 (M) For taxable years beginning on or after
5 January 1, 2002, and on or before December
6 31, 2004..... January 1, 2001
7 (N) For taxable years beginning on or after
8 January 1, 2005, and on or before December
9 31, 2009..... January 1, 2005
10 (O) For taxable years beginning on or after
11 January 1, 2010..... January 1, 2009
12

13 (2) (A) Unless otherwise specifically provided, for federal laws
14 enacted on or after January 1, 1987, and on or before the specified
15 date for the taxable year, uncodified provisions that relate to
16 provisions of the Internal Revenue Code that are incorporated for
17 purposes of this part shall be applicable to the same taxable years
18 as the incorporated provisions.

19 (B) In the case where Section 901 of the Economic Growth and
20 Tax Relief Act of 2001 (Public Law 107-16) applies to any
21 provision of the Internal Revenue Code that is incorporated for
22 purposes of this part, Section 901 of the Economic Growth and
23 Tax Relief Act of 2001 shall apply for purposes of this part in the
24 same manner and to the same taxable years as it applies for federal
25 income tax purposes.

26 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
27 H (Repeal of Expired or Obsolete Provisions) of the Revenue
28 Reconciliation Act of 1990 (Public Law 101-508) modified
29 numerous provisions of the Internal Revenue Code and provisions
30 of prior federal acts, some of which are incorporated by reference
31 into this part. Unless otherwise provided, the provisions described
32 in the preceding sentence, to the extent that they modify provisions
33 that are incorporated into this part, are declaratory of existing law
34 and shall be applied in the same manner and for the same periods
35 as specified in the Revenue Reconciliation Act of 1990.

36 (b) Unless otherwise specifically provided, when applying any
37 provision of the Internal Revenue Code for purposes of this part,
38 a reference to any of the following is not applicable for purposes
39 of this part:

1 (1) Except as provided in Chapter 4.5 (commencing with Section
2 23800) of Part 11 of Division 2, an electing small business
3 corporation, as defined in Section 1361(b) of the Internal Revenue
4 Code.

5 (2) Domestic international sales corporations (DISC), as defined
6 in Section 992(a) of the Internal Revenue Code.

7 (3) A personal holding company, as defined in Section 542 of
8 the Internal Revenue Code.

9 (4) A foreign personal holding company, as defined in Section
10 552 of the Internal Revenue Code.

11 (5) A foreign investment company, as defined in Section 1246(b)
12 of the Internal Revenue Code.

13 (6) A foreign trust, as defined in Section 679 of the Internal
14 Revenue Code.

15 (7) Foreign income taxes and foreign income tax credits.

16 (8) Section 911 of the Internal Revenue Code, relating to citizens
17 or residents of the United States living abroad.

18 (9) A foreign corporation, except that Section 367 of the Internal
19 Revenue Code shall be applicable.

20 (10) Federal tax credits and carryovers of federal tax credits.

21 (11) Nonresident aliens.

22 (12) Deduction for personal exemptions, as provided in Section
23 151 of the Internal Revenue Code.

24 (13) The tax on generation-skipping transfers imposed by
25 Section 2601 of the Internal Revenue Code.

26 (14) The tax, relating to estates, imposed by Section 2001 or
27 2101 of the Internal Revenue Code.

28 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
29 and Section 172 of the Tax Reform Act of 1984 (Public Law
30 98-369), relating to treatment of debt instruments, is not applicable
31 for taxable years beginning before January 1, 1987.

32 (2) The provisions contained in Public Law 99-121, relating to
33 the treatment of debt instruments, is not applicable for taxable
34 years beginning before January 1, 1987.

35 (3) For each taxable year beginning on or after January 1, 1987,
36 the provisions referred to by paragraphs (1) and (2) shall be
37 applicable for purposes of this part in the same manner and with
38 respect to the same obligations as the federal provisions, except
39 as otherwise provided in this part.

1 (d) When applying the Internal Revenue Code for purposes of
2 this part, regulations promulgated in final form or issued as
3 temporary regulations by “the secretary” shall be applicable as
4 regulations under this part to the extent that they do not conflict
5 with this part or with regulations issued by the Franchise Tax
6 Board.

7 (e) Whenever this part allows a taxpayer to make an election,
8 the following rules shall apply:

9 (1) A proper election filed with the Internal Revenue Service
10 in accordance with the Internal Revenue Code or regulations issued
11 by “the secretary” shall be deemed to be a proper election for
12 purposes of this part, unless otherwise provided in this part or in
13 regulations issued by the Franchise Tax Board.

14 (2) A copy of that election shall be furnished to the Franchise
15 Tax Board upon request.

16 (3) (A) Except as provided in subparagraph (B), in order to
17 obtain treatment other than that elected for federal purposes, a
18 separate election shall be filed at the time and in the manner
19 required by the Franchise Tax Board.

20 (B) (i) If a taxpayer makes a proper election for federal income
21 tax purposes prior to the time that taxpayer becomes subject to the
22 tax imposed under this part or Part 11 (commencing with Section
23 23001), that taxpayer is deemed to have made the same election
24 for purposes of the tax imposed by this part, Part 10.2 (commencing
25 with Section 18401), and Part 11 (commencing with Section
26 23001), as applicable, and that taxpayer may not make a separate
27 election for California tax purposes unless that separate election
28 is expressly authorized by this part, Part 10.2 (commencing with
29 Section 18401), or Part 11 (commencing with Section 23001), or
30 by regulations issued by the Franchise Tax Board.

31 (ii) If a taxpayer has not made a proper election for federal
32 income tax purposes prior to the time that taxpayer becomes subject
33 to tax under this part or Part 11 (commencing with Section 23001),
34 that taxpayer may not make a separate California election for
35 purposes of this part, Part 10.2 (commencing with Section 18401),
36 or Part 11 (commencing with Section 23001), unless that separate
37 election is expressly authorized by this part, Part 10.2 (commencing
38 with Section 18401), or Part 11 (commencing with Section 23001),
39 or by regulations issued by the Franchise Tax Board.

1 (iii) This subparagraph applies only to the extent that the
2 provisions of the Internal Revenue Code or the regulation issued
3 by “the secretary” authorizing an election for federal income tax
4 purposes apply for purposes of this part, Part 10.2 (commencing
5 with Section 18401) or Part 11 (commencing with Section 23001).

6 (f) Whenever this part allows or requires a taxpayer to file an
7 application or seek consent, the rules set forth in subdivision (e)
8 shall be applicable with respect to that application or consent.

9 ~~(g) When applying the Internal Revenue Code for purposes of~~
10 ~~determining the statute of limitations under this part, any reference~~
11 ~~to a period of three years shall be modified to read four years for~~
12 ~~purposes of this part.~~

13 ~~(h)~~

14 (g) When applying, for purposes of this part, any section of the
15 Internal Revenue Code or any applicable regulation thereunder,
16 all of the following shall apply:

17 (1) References to “adjusted gross income” shall mean the
18 amount computed in accordance with Section 17072, except as
19 provided in paragraph (2).

20 (2) (A) Except as provided in subparagraph (B), references to
21 “adjusted gross income” for purposes of computing limitations
22 based upon adjusted gross income, shall mean the amount required
23 to be shown as adjusted gross income on the federal tax return for
24 the same taxable year.

25 (B) In the case of registered domestic partners and former
26 registered domestic partners, adjusted gross income, for the
27 purposes of computing limitations based upon adjusted gross
28 income, shall mean the adjusted gross income on a federal tax
29 return computed as if the registered domestic partner or former
30 registered domestic partner was treated as a spouse or former
31 spouse, respectively, for federal income tax purposes, and used
32 the same filing status that was used on the state tax return for the
33 same taxable year.

34 (3) Any reference to “subtitle” or “chapter” shall mean this part.

35 (4) The provisions of Section 7806 of the Internal Revenue
36 Code, relating to construction of title, shall apply.

37 (5) Any provision of the Internal Revenue Code that becomes
38 operative on or after the specified date for that taxable year shall
39 become operative on the same date for purposes of this part.

(6) Any provision of the Internal Revenue Code that becomes inoperative on or after the specified date for that taxable year shall become inoperative on the same date for purposes of this part.

(7) Due account shall be made for differences in federal and state terminology, effective dates, substitution of “Franchise Tax Board” for “secretary” when appropriate, and other obvious differences.

(8) Except as otherwise provided, any reference to Section 501 of the Internal Revenue Code shall be interpreted to also refer to Section 23701.

(i)
(h) Any reference to a specific provision of the Internal Revenue Code shall include modifications of that provision, if any, in this part.

SEC. 4. Section 18526 of the Revenue and Taxation Code is amended to read:

18526. A joint return may not be made under Section 18522 in any of the following situations:

(a) After the expiration of ~~four~~ *three* years from the last date prescribed by law for filing the return for the taxable year (determined without regard to any extension of time granted to either spouse).

(b) After there has been mailed to either spouse, with respect to the taxable year, a notice of deficiency under Section 19033, if the spouse, as to that notice, files a protest under Section 19041 or appeal under Section 19045.

(c) After either spouse has commenced a suit in any court for the recovery of any part of the tax for that taxable year.

(d) After either spouse has entered into a closing agreement under Section 19441 with respect to the taxable year.

SEC. 5. Section 19032 of the Revenue and Taxation Code is amended to read:

19032. (a) As soon as practicable after the return is filed, the Franchise Tax Board shall examine it and shall determine the correct amount of the tax.

(b) *The Franchise Tax Board shall have just cause in order to begin any audit and shall not begin any audit more than three years from the date the return is filed.*

SEC. 6. Section 19057 of the Revenue and Taxation Code is amended to read:

1 19057. (a) Except in the case of a false or fraudulent return
2 and except as otherwise expressly provided in this part, every
3 notice of a proposed deficiency assessment shall be mailed to the
4 taxpayer within ~~four~~ *three* years after the return was filed. No
5 deficiency shall be assessed or collected with respect to the year
6 for which the return was filed unless the notice is mailed within
7 the ~~four-year~~ *three-year* period or the period otherwise provided.
8 For purposes of this chapter, the term “return” means the return
9 required to be filed by the taxpayer and does not include a return
10 of any person from whom the taxpayer has received an item of
11 income, gain, loss, deduction, or credit.

12 (b) The running of the period of limitations provided in
13 subdivision (a) on mailing a notice of proposed deficiency
14 assessment shall, in a case under Title 11 of the United States
15 Code, be suspended for any period during which the Franchise
16 Tax Board is prohibited by reason of that case from mailing the
17 notice of proposed deficiency assessment and for 60 days
18 thereafter.

19 (c) Where, within the 60-day period ending on the day on which
20 the time prescribed in this section for the assessment of any tax
21 imposed under Part 10 (commencing with Section 17001) or Part
22 11 (commencing with Section 23001) for any taxable year would
23 otherwise expire, the Franchise Tax Board receives a written
24 document, other than an amended return or a report required by
25 Section 18622, signed by the taxpayer showing that the taxpayer
26 owes an additional amount of that tax for that taxable year, the
27 period for the assessment of an additional amount in excess of the
28 amount shown on either an original or amended return shall not
29 expire before the day 60 days after the day on which the Franchise
30 Tax Board receives that document.

31 (d) If a taxpayer determines in good faith that it is an exempt
32 organization and files a return as an exempt organization under
33 Section 23772, and if the taxpayer is thereafter held to be a taxable
34 organization for the taxable year for which the return is filed, that
35 return shall be deemed the return of the organization for the
36 purposes of this section.

37 SEC. 7. Section 19058 of the Revenue and Taxation Code is
38 amended to read:

39 19058. (a) If the taxpayer omits from gross income an amount
40 properly includable therein which is in excess of 25 percent of the

1 amount of gross income stated in the return, a notice of a proposed
2 deficiency assessment may be mailed to the taxpayer within ~~six~~
3 *three* years after the return was filed. Additionally, in the case of
4 a corporation, a proceeding in court for the collection of the tax
5 may be commenced without assessment at any time within ~~six~~
6 *three* years after the return was filed.

7 (b) For purposes of this section both of the following shall apply:

8 (1) In the case of a trade or business, the term “gross income”
9 means the total of the amounts received or accrued from the sale
10 of goods or services (if the amounts are required to be shown on
11 the return) prior to diminution by the cost of the sales or service.

12 (2) In determining the amount omitted from gross income, there
13 shall not be taken into account any amount which is omitted from
14 gross income stated in the return if the amount is disclosed in the
15 return, or in a statement attached to the return, in a manner adequate
16 to apprise the Franchise Tax Board of the nature and amount of
17 the item.

18 SEC. 8. Section 19060 of the Revenue and Taxation Code is
19 amended to read:

20 19060. (a) If a taxpayer fails to report a change or correction
21 by the Commissioner of Internal Revenue or other officer of the
22 United States or other competent authority or fails to file an
23 amended return as required by Section 18622, a notice of proposed
24 deficiency assessment resulting from the adjustment may be mailed
25 to the taxpayer at any time.

26 (b) If, after the six-month period required in Section 18622, a
27 taxpayer or the Internal Revenue Service reports a change or
28 correction by the Commissioner of Internal Revenue or other
29 officer of the United States or other competent authority or files
30 an amended return as required by Section 18622, a notice of
31 proposed deficiency assessment resulting from the adjustment may
32 be mailed to the taxpayer within ~~four~~ *three* years from the date the
33 taxpayer or the Internal Revenue Service notifies the Franchise
34 Tax Board of that change or correction or files that return.

35 SEC. 9. Section 19061 of the Revenue and Taxation Code is
36 amended to read:

37 19061. In case of a deficiency described in Sections 24945 and
38 24946, and in Sections 1033(a)(2)(C) and 1033(a)(2)(D) of the
39 Internal Revenue Code, the deficiency may be assessed at any time

1 prior to the expiration of the time therein provided *three years*
2 *after the return was filed.*

3 SEC. 10. Section 19065 of the Revenue and Taxation Code is
4 amended to read:

5 19065. If any taxpayer agrees with the United States
6 Commissioner of Internal Revenue for an extension or renewals
7 thereof of the period for proposing and assessing deficiencies in
8 federal income taxes for any year, the period for mailing a notice
9 of a proposed deficiency shall be ~~four~~ *three* years after the return
10 was filed or six months after the date of the expiration of the agreed
11 period for assessing deficiencies in the federal income tax,
12 whichever period expires the later.

13 SEC. 11. Section 19066.5 of the Revenue and Taxation Code
14 is amended to read:

15 19066.5. In the case of any information that is required to be
16 reported to the Franchise Tax Board under Section 19141.2 or
17 19141.5, the time for assessment of any tax imposed by Part 10
18 (commencing with Section 17001), Part 11 (commencing with
19 Section 23001), or this part with respect to any event or period to
20 which that information relates shall not expire before the date that
21 is ~~four~~ *three* years after the date on which the Franchise Tax Board
22 is furnished the information required to be reported under Section
23 19141.2 or 19141.5, or within the periods provided in Section
24 19057, 19058, 19059, 19060, 19065, 24945, 24946, Section
25 1033(a)(2)(C) of the Internal Revenue Code, or Section
26 1033(a)(2)(D) of the Internal Revenue Code, whichever period
27 expires later.

28 SEC. 12. Section 23051.5 of the Revenue and Taxation Code
29 is amended to read:

30 23051.5. (a) (1) Unless otherwise specifically provided, the
31 terms "Internal Revenue Code," "Internal Revenue Code of 1954,"
32 or "Internal Revenue Code of 1986," for purposes of this part,
33 mean Title 26 of the United States Code, including all amendments
34 thereto, as enacted on the specified date for the applicable taxable
35 year as defined in paragraph (1) of subdivision (a) of Section
36 17024.5.

37 (2) (A) Unless otherwise specifically provided, for federal laws
38 enacted on or after January 1, 1987, and on or before the specified
39 date for the taxable year, uncodified provisions that relate to
40 provisions of the Internal Revenue Code that are incorporated for

1 purposes of this part, shall be applicable to the same taxable years
2 as the incorporated provisions.

3 (B) In the case where Section 901 of the Economic Growth and
4 Tax Relief Act of 2001 (Public Law 107-16) applies to any
5 provision of the Internal Revenue Code that is incorporated for
6 purposes of this part, Section 901 of the Economic Growth and
7 Tax Relief Act of 2001 (Public Law 107-16) shall apply for
8 purposes of this part in the same manner and to the same taxable
9 years as it applies for federal income tax purposes.

10 (3) Subtitle G (Tax Technical Corrections) and Part I of Subtitle
11 H (Repeal of Expired or Obsolete Provisions) of the Revenue
12 Reconciliation Act of 1990 (Public Law 101-508) modified
13 numerous provisions of the Internal Revenue Code and provisions
14 of prior federal acts, some of which are incorporated by reference
15 into this part. Unless otherwise provided, the provisions described
16 in the preceding sentence, to the extent that they modify provisions
17 that are incorporated into this part, are declaratory of existing law
18 and shall be applied in the same manner and for the same periods
19 as specified in the Revenue Reconciliation Act of 1990.

20 (b) Unless otherwise specifically provided, when applying the
21 Internal Revenue Code for purposes of this part, a reference to any
22 of the following is not applicable for purposes of this part:

23 (1) Domestic International Sales Corporations (DISC), as
24 defined in Section 992(a) of the Internal Revenue Code.

25 (2) Foreign Sales Corporations (FSC), as defined in Section
26 922(a) of the Internal Revenue Code.

27 (3) A personal holding company, as defined in Section 542 of
28 the Internal Revenue Code.

29 (4) A foreign personal holding company, as defined in Section
30 552 of the Internal Revenue Code.

31 (5) A foreign investment company, as defined in Section 1246(b)
32 of the Internal Revenue Code.

33 (6) A foreign trust as defined in Section 679 of the Internal
34 Revenue Code.

35 (7) Foreign income taxes and foreign income tax credits.

36 (8) Federal tax credits and carryovers of federal tax credits.

37 (c) (1) The provisions contained in Sections 41 to 44, inclusive,
38 and Section 172 of the Tax Reform Act of 1984 (Public Law
39 98-369), relating to treatment of debt instruments, is not applicable
40 for taxable years beginning before January 1, 1987.

1 (2) The provisions contained in Public Law 99-121, relating to
2 the treatment of debt instruments, is not applicable for taxable
3 years beginning before January 1, 1987.

4 (3) For taxable years beginning on and after January 1, 1987,
5 the provisions referred to by paragraphs (1) and (2) shall be
6 applicable for purposes of this part in the same manner and with
7 respect to the same obligations as the federal provisions, except
8 as otherwise provided in this part.

9 (d) When applying the Internal Revenue Code for purposes of
10 this part, regulations promulgated in final form or issued as
11 temporary regulations by “the secretary” shall be applicable as
12 regulations issued under this part to the extent that they do not
13 conflict with this part or with regulations issued by the Franchise
14 Tax Board.

15 (e) Whenever this part allows a taxpayer to make an election,
16 the following rules shall apply:

17 (1) A proper election filed with the Internal Revenue Service
18 in accordance with the Internal Revenue Code or regulations issued
19 by “the secretary” shall be deemed to be a proper election for
20 purposes of this part, unless otherwise expressly provided in this
21 part or in regulations issued by the Franchise Tax Board.

22 (2) A copy of that election shall be furnished to the Franchise
23 Tax Board upon request.

24 (3) (A) Except as provided in subparagraph (B), in order to
25 obtain treatment other than that elected for federal purposes, a
26 separate election shall be filed with the Franchise Tax Board at
27 the time and in the manner that may be required by the Franchise
28 Tax Board.

29 (B) (i) If a taxpayer makes a proper election for federal income
30 tax purposes prior to the time that taxpayer becomes subject to the
31 tax imposed under this part or Part 10 (commencing with Section
32 17001), that taxpayer is deemed to have made the same election
33 for purposes of the tax imposed by this part, Part 10 (commencing
34 with Section 17001), and Part 10.2 (commencing with Section
35 18401), as applicable, and that taxpayer may not make a separate
36 election for California tax purposes unless that separate election
37 is expressly authorized by this part, Part 10 (commencing with
38 Section 17001), or Part 10.2 (commencing with Section 18401),
39 or by regulations issued by the Franchise Tax Board.

(ii) If a taxpayer has not made a proper election for federal income tax purposes prior to the time that taxpayer becomes subject to tax under this part or Part 10 (commencing with Section 17001), that taxpayer may not make a separate California election for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401), unless that separate election is expressly authorized by this part, Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or by regulations issued by the Franchise Tax Board.

(iii) This subparagraph applies only to the extent that the provisions of the Internal Revenue Code or regulations issued by “the secretary” authorizing an election for federal income tax purposes apply for purposes of this part, Part 10 (commencing with Section 17001), or Part 10.2 (commencing with Section 18401).

(f) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (e) shall apply to that application or consent.

~~(g) When applying the Internal Revenue Code for purposes of determining the statute of limitations under this part, any reference to a period of three years shall be modified to read four years for purposes of this part.~~

~~(h)~~

(g) When applying, for purposes of this part, any section of the Internal Revenue Code or any applicable regulation thereunder, all of the following shall apply:

(1) For purposes of Chapter 2 (commencing with Section 23101), Chapter 2.5 (commencing with Section 23400), and Chapter 3 (commencing with Section 23501), the term “taxable income” shall mean “net income.”

(2) For purposes of Article 2 (commencing with Section 23731) of Chapter 4, the term “taxable income” shall mean “unrelated business taxable income,” as defined by Section 23732.

(3) Any reference to “subtitle,” “Chapter 1,” or “chapter” shall mean this part.

(4) The provisions of Section 7806 of the Internal Revenue Code, relating to construction of title, shall apply.

(5) Any provision of the Internal Revenue Code that becomes operative on or after the specified date for that taxable year shall become operative on the same date for purposes of this part.

1 (6) Any provision of the Internal Revenue Code that becomes
2 inoperative on or after the specified date for that taxable year shall
3 become inoperative on the same date for purposes of this part.

4 (7) Due account shall be made for differences in federal and
5 state terminology, effective dates, substitution of “Franchise Tax
6 Board” for “secretary” when appropriate, and other obvious
7 differences.

8 (8) Any provision of the Internal Revenue Code that refers to
9 a “corporation” shall, when applicable for purposes of this part,
10 include a “bank,” as defined by Section 23039.

11 (9) Except as otherwise provided, any reference to Section 501
12 of the Internal Revenue Code shall be interpreted to also refer to
13 Section 23701.

14 (i)

15 (h) Any reference to a specific provision of the Internal Revenue
16 Code shall include modifications of that provision, if any, in this
17 part.

18 SEC. 13. Section 24273.5 of the Revenue and Taxation Code
19 is amended to read:

20 24273.5. (a) Noncash patronage allocations from farmers’
21 cooperative and mutual associations (whether paid in capital stock,
22 revolving fund certificates, retain certificates, certificates of
23 indebtedness, letters of advice or in some other manner that
24 discloses the dollar amount of such noncash patronage allocations)
25 may, at the election of the taxpayer, be considered as income and
26 included in gross income for the taxable year in which received.

27 (b) If a taxpayer exercises the election provided for in
28 subdivision (a), the amount included in gross income shall be the
29 face amount of such allocations.

30 (c) If a taxpayer elects to exclude noncash patronage allocations
31 from gross income for the taxable year in which received, such
32 allocations shall be included in gross income in the year that they
33 are redeemed or realized upon.

34 (d) If a taxpayer exercises the election provided for in
35 subdivision (c), the face amount of such noncash patronage
36 allocations shall be disclosed in the return made for the taxable
37 year in which such noncash patronage allocations were received.

38 (e) If a taxpayer exercises the election provided for in
39 subdivision (a) or (c) for any taxable year, then the method of
40 computing income so adopted shall be adhered to with respect to

1 all subsequent taxable years unless with the approval of the
2 Franchise Tax Board a change to a different method is authorized.

3 (f) If a taxpayer has made the election provided for in
4 subdivision (c), then (1) the statutory period for the assessment
5 of a deficiency for any taxable year in which the amount of any
6 noncash patronage allocations are realized shall not expire prior
7 to the expiration of ~~four~~ *three* years from the date the Franchise
8 Tax Board is notified by the taxpayer (in any manner as the
9 Franchise Tax Board may by regulation prescribe) of the realization
10 of gain on such allocations; and (2) that deficiency may be
11 assessed prior to the expiration of the ~~four-year~~ *three-year* period,
12 notwithstanding the provisions of Section 19057 or the provisions
13 of any other law or rule of law which would otherwise prevent
14 such assessment.

15 SEC. 14. Section 24945 of the Revenue and Taxation Code is
16 amended to read:

17 24945. If a taxpayer has made the election provided in Section
18 24944(a), then—

19 (a) The statutory period for the assessment of any deficiency,
20 for any taxable year in which any part of the gain on such
21 conversion is realized, attributable to such gain shall not expire
22 prior to the expiration of ~~four~~ *three* years from the date the
23 Franchise Tax Board is notified by the taxpayer (in such manner
24 as the Franchise Tax Board may by regulations prescribe) of the
25 replacement of the converted property or of an intention not to
26 replace; and

27 (b) Such deficiency may be assessed before the expiration of
28 such ~~four-year~~ *three-year* period notwithstanding the provisions
29 of any other law or rule of law which would otherwise prevent
30 such assessment.